

BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation
Against:

CHARLES COTHAM, M.D.
Certificate No. A-17603

Respondent.

No. D-3091

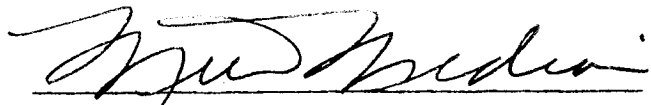
DECISION

The attached Stipulation is hereby adopted by the Division
of Medical Quality of the Board of Medical Quality Assurance as its
Decision in the above-entitled matter.

This Decision shall become effective on June 20, 1984.

IT IS SO ORDERED May 21, 1984.

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE



MILLER MEDEARIS
Secretary-Treasurer

1 JOHN K. VAN DE KAMP, Attorney General
2 of the State of California
3 STEVEN M. KAHN
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6 Sacramento, California 95814
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8 Attorneys for Complainant

9 BEFORE THE
10 DIVISION OF MEDICAL QUALITY
11 BOARD OF MEDICAL QUALITY ASSURANCE
12 DEPARTMENT OF CONSUMER AFFAIRS
13 STATE OF CALIFORNIA

14 In the Matter of the Accusation)	No. D-3091
15 Against:)	
16 CHARLES COTHAM, M.D.)	
17 437 Del Norte)	STIPULATION,
18 Yuba City, CA 95991)	<u>DECISION AND ORDER</u>
19 Physician's and Surgeon's)	
20 Certificate No. A17603)	
21 Respondent.)	

22 IT IS HEREBY STIPULATED by the parties to the above
23 entitled matter that the following is true:

24 1. Respondent Charles Cotham, M.D. (hereinafter
25 "respondent") was heretofore issued physician's and surgeon's
26 certificate number A17603 under the laws of the State of
27 California, and that at all times herein mentioned, said cer-
tificate was, and now is, in full force and effect.

2. On or about August 15, 1983, an accusation bearing
number D-3091 was filed by Stephen R. Wilford, Acting Executive
Director of the Board of Medical Quality Assurance of the State

1 of California, in his official capacity as such. Said accusation
2 alleges causes for disciplinary action against respondent, and
3 said accusation is incorporated herein by reference as though
4 fully set forth at this point. Said respondent was duly and prop-
5 erly served with accusation number D-3091 by certified mail, and
6 said respondent filed a timely notice of defense requesting a
7 hearing on the charges contained in the accusation.

8 3. Respondent has retained as his counsel, the Law
9 Offices of Turner and Sullivan. Respondent has fully discussed
10 with his counsel the charges and allegations of violations of the
11 California Business and Professions Code alleged in accusation
12 number D-3091 and has been fully advised of his rights under the
13 Administrative Procedure Act of the State of California, includ-
14 ing his right to a formal hearing and opportunity to defend
15 against the charges contained therein, and reconsideration and
16 appeal of any adverse decision that might be rendered following
17 said hearing. Said respondent knowingly and intelligently waives
18 his rights to a hearing, reconsideration, appeal, and to any and
19 all other rights which may be accorded him pursuant to the
20 Administrative Procedure Act regarding the charges contained in
21 accusation number D-3091 subject, however, to the provisions of
22 paragraph 7 herein.

23 4. Respondent admits that at all times herein men-
24 tioned, Biphedamine, a brand name for a combination of ampheta-
25 mine and dextroamphetamine; Fastin and Ionamin, brand names for
26 phentermine; Dexamyl, a brand name for a combination of dextro-
27 amphetamine sulfate and amobarbital; Tenuate, a brand name for

1 diethylpropion; Preludin, a brand name for phenmetrazine; Didrex,
2 a brand name for benzphetamine, APC No. 4 (aspirin, phenacetin
3 and caffeine with codeine) and Empirin No. 3 (aspirin and phenac-
4 etin with codeine) were dangerous drugs within the meaning of
5 Business and Professions Code section 4211.

6 5. For purposes of this proceeding and any subsequent
7 proceeding between the parties only, and for no other, respondent
8 admits that the following facts are true:

9 I. ROSE O.

10 A(1) From in or about November 1977 through at least
11 June 24, 1982, respondent saw Rose O. for various conditions
12 including obesity.

13 A(2) From in or about November 1977 through in or
14 about May 1982, respondent, on approximately a monthly basis
15 prescribed Biphphetamine, 20 mg., one or two daily for said person.
16 On some occasions, respondent substituted Ionamin or Fastin for
17 Biphphetamine.

18 A(3) The prescribing of drugs as alleged hereinabove
19 constituted repeated acts of clearly excessive prescribing of
20 drugs as determined by the standards of the local community of
21 licensees.

22 II. PHOEBE D.

23 B(1) During the period from in or about March 1978
24 through in or about June 1982, respondent saw Phoebe D. for var-
25 ious conditions including obesity and arthritis.

26 B(2) From in or about April 1978 through in or about
27 October 1981, respondent, on approximately a monthly basis, pre-
28 scribed Preludin, Biphphetamine, Fastin or Ionamin, one daily for
29 said person.

1 B(3) Commencing in or about April 1979 and continuing
2 through in or about November 1980, respondent, on numerous occa-
3 sions, prescribed Percodan for said person for arthritis.

4 B(4) The prescribing of Preludin, Biphetamine, Fastin
5 and Ionamin as alleged hereinabove constituted repeated acts of
6 clearly excessive prescribing as determined by the standards of
7 the local community of licensees.

8 B(5) The repeated prescribing of Percodan for arthritis
9 constituted repeated similar negligent acts.

10 III. DARLENE H.

11 C(1) During the period from in or about December 1979
12 through at least in or about June 1982, respondent saw Darlene H.
13 for a number of conditions including obesity and arthritis.

14 C(2) During the period from in or about December 1979
15 through in or about June 1982, respondent, on almost a monthly
16 basis, prescribed Biphetamine, 20 mg., one daily for said person.
17 On some occasions, respondent substituted Fastin or Didrex for
18 Biphetamine. During the same period of time, respondent, on
19 numerous occasions, prescribed APC No. 4 for Darlene H.

20 C(3) The prescribing of Biphetamine, Fastin and Didrex
21 constituted repeated acts of clearly excessive prescribing of
22 drugs as determined by the standards of the local community of
23 licensees.

24 C(4) Respondent prescribed APC No. 4 for Darlene H.
25 without a medical indication therefor.

26 /

27 /

4.

IV. JUDY C.

D(1) During the period from in or about December 1977 through at least in or about July 1982, respondent saw Judy C. for various conditions including obesity and arthritis.

D(2) During the period from in or about March 1978 through in or about July 1982, respondent, on approximately a monthly basis, prescribed Biphedamine, Ionamin or Fastin for said person.

D(3) During the period from in or about March 1979 to in or about September 1980 and from in or about April 1981 through in or about July 1982, respondent, on approximately a monthly basis, prescribed APC No. 4 or Empirin No. 3 for said person.

D(4) The prescribing of Biphedamine, Ionamin and Fastin as alleged hereinabove constituted repeated acts of clearly excessive prescribing of drugs as determined by the standards of the local community of licensees.

D(5) Respondent prescribed APC No. 4 or Empirin No. 3 for Judy C. without a medical indication therefor.

6. Pursuant to the facts admitted in paragraph 5 hereinabove, respondent admits that his physician's and surgeon's certificate is subject to disciplinary action pursuant to sections 2220 and 2234 of the Business and Professions Code in that he has violated Business and Professions Code sections 725, 2234, subdivision (c), and 2242 subdivision (a).

7. In the event that this stipulation, decision and order is not accepted and adopted by the Division of Medical

1 Quality of the Board of Medical Quality Assurance of the State of
2 California, the stipulations and characterizations of law and
3 fact made by all parties herein shall be null, void and inadmis-
4 sible in any proceeding involving the parties to it.

5 WHEREFORE, it is stipulated that the Division of Medical
6 Quality of the Board of Medical Quality Assurance may issue the
7 following decision and order:

8 Physician's and surgeon's certificate number A17603
9 issued to respondent Charles Cotham, M.D., is hereby revoked,
10 provided, however, that said revocation shall be stayed and
11 respondent shall be placed upon probation for a period of ten
12 (10) years upon the following terms and conditions:

13 1. Certificate number A17603 issued to respondent
14 Charles Cotham is suspended for thirty (30) days.

15 2(A) Prior to the effective date of this decision,
16 respondent shall take and pass an oral clinical examination
17 in general practice to be given by the Division or its
18 designee. If respondent fails this examination, he shall
19 cease the practice of medicine until he passes it, and must
20 wait three months between re-examinations, except that after
21 three failures respondent must wait one year to take each
22 necessary re-examination thereafter. The Division shall pay
23 the cost of the first examination and respondent shall pay
24 the costs of any subsequent examinations.

25 (B) Respondent shall not practice medicine after
26 the effective date of this decision unless and until he has
27 passed the examination and has been so notified by the

1 Division in writing. However, if the examination is not
2 given until after the effective date of the decision, and
3 where any delay is not the fault of respondent, he shall be
4 permitted to continue the practice of medicine until the
5 examination is given and until he is notified that he has
6 failed the examination. Upon said notification, he shall
7 cease practicing medicine until he passes the examination.

8 3. Within 90 days of the effective date of this deci-
9 sion, and on an annual basis thereafter, respondent shall
10 submit to the Division for its prior approval an educational
11 program or course related to general practice and medical
12 therapeutics, which shall not be less than 40 hours per year,
13 for each year of probation. This program shall be in addi-
14 tion to the Continuing Medical Education requirements for re-
15 licensure. Following the completion of each course, the
16 Division or its designee may administer an examination to
17 test respondent's knowledge of the course.

18 4. Respondent shall not prescribe, administer, dispense,
19 order or possess any controlled substances as defined by
20 California and federal laws and regulations except for those
21 drugs listed in Schedules IV and V. Respondent shall imme-
22 diately surrender his current DEA permit to the Drug
23 Enforcement Administration for cancellation and reapply for a
24 new DEA permit limited to those Schedules authorized by this
25 order.

26 5. Respondent shall maintain a record of all controlled
27 substances prescribed, dispensed or administered by respondent

1 during probation, showing all the following: 1) the name and
2 address of the patient, 2) the date, 3) the name and quantity
3 of controlled substances involved, and 4) the pathology and
4 purpose for which the controlled substance was furnished.
5 Respondent shall make such records available for inspection
6 and copying by the Division or its designee, upon request.

7 6. Respondent shall obey all federal, state and local
8 laws and all rules governing the practice of medicine in
9 California.

10 7. Respondent shall submit quarterly declarations under
11 penalty of perjury on forms provided by the Division, stating
12 whether there has been compliance with all the conditions of
13 probation.

14 8. Respondent shall comply with the Division's proba-
15 tion surveillance program.

16 9. Respondent shall appear in person for interviews
17 with the Division's medical consultant upon request at
18 various intervals and with reasonable notice.

19 10. In the event respondent should leave California to
20 reside or to practice outside the State, respondent must
21 notify in writing the Division of the dates of departure and
22 return. Periods of residence or practice outside California
23 will not apply to the reduction of this probationary period.

24 Upon successful completion of probation, respondent's
25 certificate will be fully restored. If respondent violates pro-
26 bation in any respect, the Division, after giving respondent
27 notice and the opportunity to be heard, may revoke probation and

1 carry out the disciplinary order that was stayed. If an accusa-
2 tion or petition to revoke probation is filed against respondent
3 during probation, the Division shall have continuing jurisdiction
4 until the matter is final, and the period of probation shall be
5 extended until the matter is final.

6 JOHN K. VAN DE KAMP, Attorney General
of the State of California

7 Dated: March 7, 1984

8 By

St Kahn
STEVEN M. KAHN
Deputy Attorney General
Attorneys for Complainant

10 LAW OFFICES OF TURNER AND SULLIVAN

11 Dated: 3.2.84

12 By

Richard K. Turner
RICHARD K. TURNER
Attorneys for Respondent
Charles Cotham, M.D.

14 I HAVE READ the stipulation, decision and order. I
15 understand I have the right to a hearing on the charges contained
16 in the accusation, the right to cross-examine witnesses, and the
17 right to introduce evidence in mitigation. I have discussed this
18 stipulation and the charges contained in the accusation with my
19 counsel and my rights to hearing and defense. I knowingly and
20 intelligently waive all of these rights, and understand that by
21 signing this stipulation, I am permitting the Division of Medical
22 Quality to impose discipline against my license. I understand
23 the terms and ramifications of the stipulation, decision and
24 order and agree to be bound by its terms.

25 Dated: 3-2-84

26 Charles Cotham, MD
CHARLES COTHAM, M.D.
27 Respondent

1 JOHN K. VAN DE KAMP, Attorney General
of the State of California
2 STEVEN M. KAHN
Deputy Attorney General
3 1515 K Street, Suite 511
Sacramento, California 95814
4 Telephone: (916) 324-5338

5 Attorneys for Complainant
6
7

8 BEFORE THE
9 DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
10 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

11 In the Matter of the Accusation)	No. D-3091
Against:)	
12 CHARLES COTHAM, M.D.)	<u>ACCUSATION</u>
13 437 Del Norte)	
Yuba City, CA 95991)	
14 Physician's and Surgeon's)	
15 Certificate No. A17603)	
16 Respondent.)	
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17
18 Stephen R. Wilford, the complainant herein, alleges as
19 follows:

20 1. At the time of excuting and filing the within
21 pleading, the complainant was, and now is, the Acting Executive
22 Director for the Board of Medical Quality Assurance of the State
23 of California and makes and files this accusation in his official
24 capacity as such and not otherwise.

25 2. On or about July 1, 1957, respondent Charles
26 Cotham, M.D. (hereinafter "respondent") was issued physician's
27 and surgeon's certificate number A17603 under the laws of the

1 State of California. Said certificate is presently in full force
2 and effect, but has previously been disciplined as set forth in
3 paragraph 16 hereinbelow.

4 3. Section 2234 of the Business and Professions Code
5 (hereinafter the "Code") provides that the Division of Medical
6 Quality of the Board of Medical Quality Assurance shall take
7 action against a holder of a physician's and surgeon's
8 certificate who is guilty of unprofessional conduct.

9 4. Section 725 of the Code provides, in pertinent
10 part, that repeated acts of clearly excessive prescribing or
11 administering of drugs or treatment as determined by the
12 standards of the local community of licensees is unprofessional
13 conduct for a physician and surgeon.

14 5. Section 2242, subdivision (a), of the Code provides
15 that prescribing, dispensing or furnishing dangerous drugs as
16 defined in section 4211 of the Code without a good faith prior
17 examination and medical indication therefor constitutes
18 unprofessional conduct.

19 6. Section 2234, subdivision (c) of the Code provides
20 that repeated similar negligent acts constitute unprofessional
21 conduct.

22 7. At all times herein mentioned, Biphetamine, a brand
23 name for a combination of amphetamine and dextroamphetamine;
24 Fastin and Ionamin, brand names for phentermine; Dexamyl, a brand
25 name for a combination of dextroamphetamine sulfate and
26 amobarbital; Tenuate, a brand name for diethylpropion; Preludin,
27 a brand name for phenmetrazine; Didrex, a brand name for

1 benzphetamine; APC No. 4 (aspirin, phenacetin and caffeine with
2 codeine) and Empirin No. 3 (aspirin and phenacetin with codeine)
3 were dangerous drugs within the meaning of Business and
4 Professions Code section 4211.

5 I. CLAUDE O.

6 8. Respondent is subject to disciplinary action
7 pursuant to section 2234 of the Code in that he is guilty of
8 unprofessional conduct as more particularly alleged hereinafter:

9 A. During the period from in or about November 1977
10 through at least July 1982, respondent saw Claude O. for various
11 conditions including obesity.

12 B. During the period from in or about November 1977
13 through at least May 1982, respondent, on approximately a monthly
14 basis, prescribed Biphetamine, 20 mg., one or two daily for said
15 person. On some occasions, respondent substituted Fastin for
16 Biphetamine.

17 C. Respondent violated section 725 of the Code in that
18 his prescribing of drugs as alleged hereinabove constituted
19 repeated acts of clearly excessive prescribing of drugs as
20 determined by the standards of the local community of licensees.

21 II. ROSE O.

22 9. Respondent is further subject to disciplinary
23 action pursuant to section 2234 of the Code in that he is guilty
24 of unprofessional conduct as more particularly alleged
25 hereinafter:

26 A. From in or about November 1977 through at least
27 June 24, 1982, respondent saw Rose O. for various conditions
28 including obesity.

1 B. From in or about November 1977 through in or about
2 May 1982, respondent, on approximately a monthly basis prescribed
3 Biphedamine, 20 mg., one or two daily for said person. On some
4 occasions, respondent substituted Ionamin or Fastin for
5 Biphedamine.

6 C. Respondent violated section 725 of the Code in that
7 his prescribing of drugs as alleged hereinabove constituted
8 repeated acts of clearly excessive prescribing of drugs as
9 determined by the standards of the local community of licensees.

10 III. JOANNE L.

11 10. Respondent is further subject to disciplinary
12 action pursuant to section 2234 of the Code in that he is guilty
13 of unprofessional conduct as more particularly alleged
14 hereinafter:

15 A. During the period from in or about January 1978
16 through at least in or about June 1982, respondent saw Joanne L.
17 for various conditions including obesity.

18 B. During the period from in or about March 1978
19 through in or about March 1982, respondent prescribed Dexamy1
20 spansules, or Biphedamine, 20 mg., approximately one daily for
21 said person. On some occasions, respondent substituted Ionamin
22 or Tenuate for Biphedamine.

23 C. Respondent violated section 725 of the Code in that
24 his prescribing of drugs as alleged hereinabove constituted
25 repeated acts of clearly excessive prescribing of drugs as
26 determined by the standards of the local community of licensees.

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1 IV. DOROTHY W.

2 11. Respondent is further subject to disciplinary
3 action pursuant to section 2234 of the Code in that he is guilty
4 of unprofessional conduct as more particularly alleged
5 hereinafter:

6 A. During the period from in or about December 1977 to
7 at least in or about July 1982, respondent saw Dorothy W. for
8 various conditions including obesity.

9 B. From in or about March 1978 through in or about
10 December 1981, respondent, on approximately 14 occasions,
11 prescribed Dexamyl Spansules or Biphethamine, 20 mg., one or two
12 daily for said person.

13 C. Respondent violated section 725 of the Code in that
14 his prescribing of drugs as alleged hereinabove constituted
15 repeated acts of clearly excessive prescribing of drugs as
16 determined by the standards of the local community of licensees.

17 V. PHOEBE D.

18 12. Respondent is further subject to disciplinary
19 action pursuant to section 2234 of the Code in that he is guilty
20 of unprofessional conduct as more particularly alleged
21 hereinafter:

22 A. During the period from in or about March 1978
23 through in or about June 1982, respondent saw Phoebe D. for
24 various conditions including obesity and arthritis.

25 B. From in or about April 1978 through in or about
26 October 1981, respondent, on approximately a monthly basis,
27 prescribed Preludin, Biphethamine, Fastin, or Ionamin, one daily
28 for said person.

1 C. Commencing in or about April 1979 and continuing
2 through in or about November 1980, respondent, on numerous
3 occasions, prescribed Percodan for said person for arthritis.

4 D. Respondent violated section 725 of the Code in that
5 his prescribing of Preludin, Biphedamine, Fastin and Ionamin as
6 alleged hereinabove constituted repeated acts of clearly
7 excessive prescribing as determined by the standards of the local
8 community of licensees.

9 E. Respondent violated section 2234, subdivision (c),
10 of the Code in that his repeated prescribing of Percodan for
11 arthritis constituted repeated similar negligent acts.

12 VII DARLENE H.

13 13. Respondent is further subject to disciplinary
14 action pursuant to section 2234 of the Code in that he is guilty
15 of unprofessional conduct as more particularly alleged
16 hereinafter:

17 A. During the period from in or about December 1979
18 through at least in or about June 1982, respondent saw Darlene H.
19 for a number of conditions including obesity and arthritis.

20 B. During the period from in or about December 1979
21 through in or about June 1982, respondent, on almost a monthly
22 basis, prescribed Biphedamine, 20 mg., one daily for said person.
23 On some occasions, respondent substituted Fastin or Didrex for
24 Biphedamine. During the same period of time, respondent, on
25 numerous occasions, prescribed APC No. 4 for Darlene H.

26 C. Respondent violated section 725 of the Code in that
27 his prescribing of Biphedamine, Fastin and Didrex constituted

1 repeated acts of clearly excessive prescribing of drugs as
2 determined by the standards of the local community of licensees.

3 D. Respondent violated section 2242, subdivision (c),
4 of the Code in that he prescribed APC No. 4 for Darlene H.
5 without a medical indication therefor.

6 VII. JUDY C.

7 14. Respondent is further subject to disciplinary
8 action pursuant to section 2234 of the Code in that he is guilty
9 of unprofessional conduct as more particularly alleged
10 hereinafter:

11 A. During the period from in or about December 1977
12 through at least in or about July 1982, respondent saw Judy C.
13 for various conditions including obesity and arthritis.

14 B. During the period from in or about March 1978
15 through in or about July 1982, respondent, on approximately a
16 monthly basis, prescribed Biphedamine, Ionamin or Fastin for said
17 person.

18 C. During the period from in or about March 1979 to in
19 or about September 1980 and from in or about April 1981 through
20 in or about July 1982, respondent, on approximately a monthly
21 basis, prescribed APC No. 4 or Empirin No. 3 for said person.

22 D. Respondent violated section 725 of the Code in that
23 his prescribing of Biphedamine, Ionamin and Fastin as alleged
24 hereinabove constituted repeated acts of clearly excessive
25 prescribing of drugs as determined by the standards of the local
26 community of licensees.

27 E. Respondent violated section 2242, subdivision (a),

1 of the Code in that he prescribed APC No. 4 or Empirin No. 3 for
2 Judy C. without a medical indication therefor.

3 15. Respondent is further subject to disciplinary
4 action pursuant to section 2234 of the Code in that he is guilty
5 of unprofessional conduct as more particularly alleged
6 hereinafter:

7 A. Paragraphs 8A, 8B, 9A, 9B, 10A, 10B, 11A, 11B, 12A,
8 12B, 12C, 13A, 13B, 14A, 14B and 14C hereinabove are incorporated
9 herein by reference as though fully set forth at this point.

10 B. Respondent's prescribing of drugs as alleged
11 hereinabove constituted repeated similar negligent acts.

12 16. Respondent's certificate has previously been
13 disciplined as more particularly alleged hereinafter:

14 A. Effective on or about June 6, 1969, in a case
15 entitled "In the Matter of the Accusation Against Charles R.
16 Cotham, M.D." case number D-1073, respondent's certificate was
17 disciplined for violation of laws including the furnishing of a
18 dangerous drug without a prescription, prescribing dangerous
19 drugs in containers not properly labeled, and issuing
20 prescriptions for dangerous drugs in the name of fictitious
21 persons. A true and correct copy of said decision is attached
22 hereto as exhibit A and is incorporated herein by reference as
23 though fully set forth at this point.

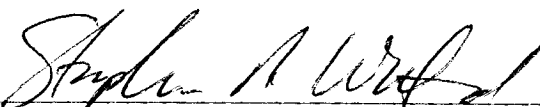
24 B. The prior disciplinary record of respondent as
25 alleged hereinabove is to be considered solely, along with other
26 pertinent factors, in determining what discipline, if any, is to
27 be imposed on respondent in these proceedings on the accusation.

1 WHEREFORE, complainant prays that the Division of
2 Medical Quality hold a hearing on the matters alleged herein and
3 following said hearing issue a decision:

4 1. Suspending or revoking the certificate issued to
5 Charles R. Cotham, M.D.; and

6 2. Taking such other and further action as it deems
7 proper.

8 DATED: August 15, 1983.

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10 STEPHEN R. WILFORD
11 Acting Executive Director
12 Board of Medical Quality Assurance
13 State of California

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Complainant